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December 20, 2000

**BY HAND DELIVERY**

Ms. Magalie R. Salas, Secretary  
Federal Communications Commission  
Portals II, TW-A325  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

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DEC 20 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In the Matter of  
Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
(Wickenburg, Bagdad, Arizona)  
File No.: MM Docket No. 00-166; RM-9951

Dear Ms. Salas:

Transmitted herewith on behalf of Bagdad Broadcasting Company are an original and four (4) copies of its "Reply Comments" as directed to the Chief, Allocations Branch.

Should any additional information be required, please contact this office.

Very truly yours,



Henry E. Crawford  
Counsel for  
Bagdad Broadcasting  
Company

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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
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In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
(Wickenburg, Bagdad, Arizona)

MM Docket No. 00-166

RM-9951

To: The Chief, Allocations Branch

**REPLY COMMENTS**

Bagdad Broadcasting Company ("Bagdad Broadcasting"), by counsel, respectfully submits its *Reply Comments* in response to the Counterproposals referenced in the Public Notice, December 5, 2000, Report No. 2453 ("Public Notice"), released by the Commission on December 5, 2000, in the above-captioned docket. In support thereof, the following is stated:

**I. INTRODUCTION**

1. On December 5, 2000, the Commission released a Notice of Proposed Rule Making ("NPRM") proposing the allotment of Channel 242C3 to Wickenburg, Arizona at the request of Wickenburg Broadcasting. The NPRM established October 30, 2000 as the date for filing comments.

2. On the date for filing comments, Bagdad Broadcasting filed a counterproposal specifying the allotment of Channel 242C3 to the community of Bagdad, Arizona. This proposal would be superior to the original Wickenburg

proposal because, under that scenario, Wickenburg would be receiving its third local FM service, while the community of Bagdad, Arizona has only a construction permit assigned to it. Hence, the public interest weighs in favor of the Bagdad Broadcasting proposal.

3. A timely counterproposal was also filed by Circle S. Broadcasting Co., Inc. ("Circle S"), the licensee of FM station KSWG on Channel 231C3 at Wickenburg, Arizona. Circle S requested that Channel 231C3 be allotted to Aguila, Arizona, as that community's first local service, that Channel 242C3 be substituted for Channel 231C3 at Wickenburg, Arizona and that KSWG's license be modified accordingly.

## **II. ARGUMENT**

### **A. Bagdad Broadcasting Supports the Circle S Proposal**

4. The Circle S proposal is open to competing expressions of interest by virtue of the fact that its proposed move from Channel 231C3 at Wickenburg to Channel 242C3 at Wickenburg is a distant channel move, not mutually exclusive with its present assignment and, hence, not protected by 47 CFR §1.420(i). As stated in §1.420(i):

(i) In the course of the rulemaking proceeding to amend §73.202(b) or §73.606(b), the Commission may modify the license or permit of an FM or television broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

47 CFR §1.420(i).

5. In the present case, the Channel 231C3 allotment to Aguila would be mutually exclusive with KSWG's present assignment. However, Circle S has not proposed to move its facilities to that channel and §1.420(i) is inapplicable. Circle S has only proposed to move from Channel 231C3 at Wickenburg to Channel 242C3 at Wickenburg and that move is not mutually exclusive with its present assignment on Channel 231C3. Additionally, the proposal to create a new facility on Channel 231C3 at Aguila is not appropriate in the present proceeding since it is not technically mutually exclusive with the Channel 242C3 proposal advanced in the underlying petition. See, Indian Wells and Indio, California, DA 00-2710, released December 1, 2000, ¶ 5; Drummond and Victor, Montana, DA 00-2326, released October 4, 2000.

6. In sum, Circle S, in what appears to be an effort to restrain competition in connection with its Wickenburg FM station, has opened up its Wickenburg channel to competing expressions of interest. The allotments sought in the Circle S Counterproposal would be of interest to Bagdad Broadcasting. If allotted, Bagdad Broadcasting will apply for and construct FM facilities at both Aguila and Wickenburg, Arizona.

**B. The Bagdad Broadcasting Proposal Remains Superior to that Offered by Wickenburg Broadcasting**

7. In the event that the Commission does not accept the Circle S Counterproposal, Bagdad Broadcasting maintains that its own Counterproposal is superior to that of Wickenburg Broadcasting. As noted in the Bagdad Broadcasting Counterproposal, adoption of the Bagdad Broadcasting

Counterproposal would result in a preferential arrangement of allotments since Wickenburg would be receiving its third local FM service, while Bagdad has only a construction permit assigned to it. Accordingly, under Bagdad Broadcasting's proposal, Bagdad will be getting its second allotted service and possibly its first actual FM service. Therefore, assignment of Channel 242C3 to Bagdad represents the preferred arrangement of allotments.

### III. CONCLUSION

8. If the Commission assigns Channel 231C3 to Aguila, Arizona, as that community's first local service, and substitutes Channel 242C3 for Channel 231C3 at Wickenburg, Arizona, Bagdad Broadcasting will apply for construction permits for both facilities and will construct those facilities if awarded a permit for either facility. Alternatively, if the Commission assigns Channel 242C3 to Bagdad, Arizona, Bagdad Broadcasting will apply for a construction permit and will construct a new facility upon award of that permit.

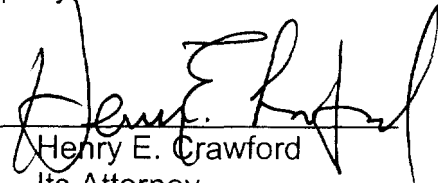
**WHEREFORE**, Bagdad Broadcasting Company respectfully requests Channel 242C3 be allotted to the community of Bagdad Arizona.

December 20, 2000

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Respectfully Submitted,

Bagdad Broadcasting  
Company

By:   
Henry E. Crawford  
Its Attorney

## **CERTIFICATE OF SERVICE**

I, Angela Y. Powell, do hereby certify that copies of the foregoing Reply Comments have been served by United States mail, postage prepaid this 20<sup>th</sup> day of December, 2000 upon the following:

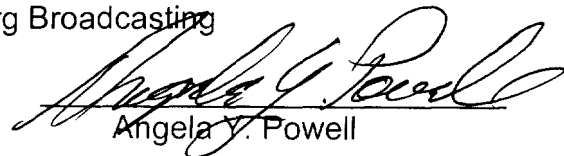
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